

Regarding claim 1

There is a fatal flaw in the Examiner's now-restated rationale for rejecting claim 1 as obvious in view of the Waelbroeck reference. The Examiner now asserts¹ that the "CTI information" referred to in the reference is an attribute of a securities exchange or an ECN. The Examiner takes this position in an attempt to satisfy the limitation of claim 1 which calls for determining an attribute of a securities exchange or an ECN that is not one of three enumerated attributes. In this assertion, the Examiner purportedly specifies that the "CTI information...comprises trading information, such as volume or trading history, of the exchange or ECN". The Examiner specifically cites page 2, paragraph 25, lines 1-15 and page 3, paragraph 30, lines 25-30 as allegedly supporting this assertion. However, the actual disclosure of the reference fails to support the Examiner's position.

As the Waelbroeck reference makes clear at numerous passages, CTI information, which stands for "certified trading interest information", is an attribute of a market participant, not an attribute of an exchange or ECN.² See for example, paragraphs 3 and 4 (page 1), paragraph 25, lines 3 and 4 and 15-17 (page 2). The whole purpose of the system described in the reference, and the import of the concept of "certified trading interest" is to allow market participants to disseminate and receive indications of the interest of potential trading partners in taking a trading position, within an environment that provides safeguards against providing false information or manipulating the market. The reference does not in any way teach selecting an ECN or exchange based on an attribute of the ECN or exchange.

The passage at paragraph 25, lines 1-15 of the reference does not refer to CTI as an attribute of an exchange or ECN. Rather, it describes using the exchanges or ECNs as sources for information about users (i.e., market participants/potential trading partners) from which CTI information for the users may be derived.

The passage at paragraph 30, lines 25-30, again indicates that external data sources such as ECNs or exchanges may be used to obtain CTI information, but does not say such information is an attribute of the ECNs or exchanges. Again, the "external sources" provide information

¹ At page 5, lines 15-17 of the Examiner's Answer.

² The Examiner apparently does not contest the appellants' point, made at pages 13-14 of the Second Appeal Brief, that the term "market participants" as used in the reference does not include exchanges or ECNs.

about the trading interests of market participants, so that CTI is an attribute of a market participant, not of an ECN or an exchange.

Regarding claim 7

In attempting to read claim 7 on the Waelbroeck reference, at the bottom of page 5 of the Examiner's Answer, the Examiner conveniently, or carelessly, omits to reflect the claim language in that the Examiner fails to note that the "at least one attribute" recited in claim 7 is an attribute of a securities exchange or ECN. The supposed teaching in the reference of "percentage of total market volume" (as recited in claim 7) relates only to trading activities of individual market participants, and does not deal with the concept of the share of total market volume that is taking place on a particular exchange or ECN. The passages of the reference cited in the first few lines of page 6 of the Examiner's Answer are only relevant to market participant attributes, and do not discuss the percentage of total market volume handled by an exchange or ECN.

Thus the Examiner has again failed to find in the reference any of the ECN/exchange attributes listed in claim 7.

CONCLUSION

This paper is filed within two months after the Examiner's Answer, so that no fee is believed to be due. However, if any additional fees are due in conjunction with this matter, the Commissioner is hereby authorized to charge them to Deposit Account 50-1852.

If any issues remain, or if the Examiner or the Board has any further suggestions for expediting allowance of the present application, kindly contact the undersigned using the information provided below.

Respectfully submitted,



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